IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

No. 307

W. O. BOWERS, JR. AND W. D. GORDON,
Petitioners and Appellants Below

VERSUS

NONA-FLETCHER MINERAL COMPANY,
Respondent and Appellee Below

REPLY TO BRIEF FOR THE RESPONDENT

MAY IT PLEASE THE COURT:

(1) Respondent's Brief has not challenged a single fact statement of our petition. On page 3 of that brief is this statement:

"There is nothing here involved except the construction of a pleading."

This petition (and that of our co-petitioner) correctly states the pleading.

(2) The sole issue is one of law, viz: The denial of the express provisions of the constitution and statutes (cited and relied upon the petition), refusing the rights, granted by these provisions, to the jurisdiction of the Federal Courts.

On page 4 of Brief for Respondent is this statement: "The decision of the court does not involve principles, the application of which is of wide public or governmental interest. The decision involves a question of concern only to the immediate parties." Then follows this: "The judgment of the Circuit Court is correct".

"Authorities". Respondent cites 16 citations, including 8 cases, 4 text books and 4 personal articles by Chief Justices Hughes and Taft and Associate Justice Frankfurter and a Mr. Hart.

That concludes the Brief for Respondent.

Here is our answer to it—if any answer be needed:

First: Constitutional and statutory rights protect the individual whether of "wide public or governmental interest" or not.

In this case, a few hundred thousand dollars, a large number of stockholders and creditors, including these petitioners, the United States, a partner in every business enterprise, and ordinary common justice are interested. If the test were "of *wide or governmental interest*" there it is. But, of course, that has nothing to do with it any more than an obscure negro boy who has been denied his constitutional right to equal protection of the law.

But let us examine the list of "Authorities" cited in the Brief for Respondent.

The "Index" lists them in the order of their importance. This writer has examined them and here declares that not a single one of these "Authorities" in the slightest degree sustains such proposition on which respondent relies.

I do not have access to the personal articles of the two deceased Chief Justices and the present Associate Justice and the Harvard writer. But I boldly and confidently as-

sert that none of them support such assertion of respondent. Justice Frankfurter is here to speak for himself. I venture to challenge the statement as to the two deceased Chief Justices, based upon my knowledge of their records on this bench, for I do know that no such "authority" was ever left in any authorized report from Marshall to Vinson. Respondent is challenged to prove his assertions.

Moreover, the third listed top "authority" (See Index) cited is HOUSTON OIL CO. OF TEXAS ET AL., v. GOODRICH, 245 U.S. I can speak from primary knowledge as to it. I argued that case before this Court thirty-five years ago. *There was no such issue in that case, nor is such an issue even remotely referred to. I find the same is true of every one of the eight cases cited in the index of "Authorities". It is also true of the four text books listed by respondent,* as disclosed by examination. **Counsel failed to quote from any one of them.** ***Second:*** **Even if plaintiffs below had included such impossible allegations in their original petition, which, of course, they did not,** ***that would not destroy the court's jurisdiction to grant the relief they prayed for on alleged facts set forth as a predicate therefor. Moreover, the 4th ground of our petition here is undeniable and unanswerable.***

Respectfully submitted,

W. D. GORDON,
Attorney for Petitioners

Of Counsel:
W. O. BOWERS, JR.

Opposing counsel has been served with a copy of this paper before filing.